



MEMO ENDORSE

Mr. Raul Davis
I.D. # 03-A-2219

Green Haven Correctional Facility

P.O. Box 4000
March 4th. 2008

United States District Court
Clerk of Court Mr. J. Michael Mc Mahon c/o
Hon. Sidney H. Stein; Magistrate, F. Maas
500 Pearl Street Re; 07 Civ. 9265(SHS)(FM)
N.Y. N.Y. 10007

Robert T. Johnson;
District Attorney, c/o ADA Mary Jo Blanchard
Bronx County
198 East 161st Street
Bronx N.Y. 10451

Dear Court Clerk Mr. Mc Mahon

Good Day, during the month of Febuary, I forwarded a letter to this Court, in c/o The Hon Sidney Stein, and Magistrate, Mr, Frank Maas, respestfully requesting that the Habeas corpus application I filed, be dismissed, (without prejudice); with permission to refile; with all the claims, because I did not include a claim, which I am seeking federal review of.

Sir, about a week later; on Feb, 21st I received the respondent's affirmation in opposition, and I am in the process of preparing a reply, to the allegations in their affirmation.

I am now, respectfully requesting that this Court grant this request for an extention to reply to the respondents affirmation.

My preliminary review of Mr. Davis' petition, this letter and his prior letter, and the respondent's opposition papers establishes that the only arguably unexhausted claim is Mr. Davis' excessive sentence claim. (The respondent argues that this claim was not presented in constitutional terms.) Contrary to what a prison law clerk suggested, it would be foolhardy for Mr. Davis to dismiss his entire petition so that he can pursue exhaustion. See Zarvela v. Artoz, 254 F.3d 374 (2d Cir 2001). Moreover, the respondent addressed the merits of his claim. I therefore will do the same when I prepare my Report and Recommendation. In the interim, Mr. Davis may submit his reply on or before April 18, 2008.
Fullmaas, USMJ, 3/18/07

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAUL DAVIS,

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Petitioner,

:

:

-against-

: 07 Civ. 9265 (SHS)(FM)

:

ROBERT ERCOLE

:

:

Respondent,

:

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AFFIRMATION

I The Petitioner In The above proceedings swears under the
panalty of perjury that on March 12th I sent (1) copy each to the
Bronx District Attorney's office, And to the Southern District
Court.

ONE LETTER REQUESTING EXTENSION FROM THE SOUTHERN DISTRICT COURT.

Raul Davis